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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 RICHARD JACKSON,

11 Plaintiff,

12 v.

13 MARK STRONG,

14 Defendant.

CASE NO. C16-5551 RBL-DWC

REPORT AND RECOMMENDATION

Noting Date: September 9, 2016

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16 The District Court has referred this action, filed under 42 U.S.C. § 1983, to United States
17 Magistrate Judge David W. Christel. Presently pending before the Court is Plaintiff Richard
18 Jackson's Motion for Leave to Proceed *In Forma Pauperis* ("Motion"). Dkt. 2.

19 The right to proceed *in forma pauperis* ("IFP") is not absolute. *O'Loughlin v. Doe*, 920
20 F.2d 614, 616 (9th Cir. 1990). Proceeding IFP is a matter within the sound discretion of the trial
21 court in civil actions. *Weller v. Dickson*, 314 F.2d 598, 600 (9th Cir. 1963). Plaintiff submitted
22 his prison trust account statement showing a spendable balance of \$3,000. Dkt. 2, p. 2. On June
23 29, 2016, the Court ordered Plaintiff to show cause why his Motion should not be denied or, in
24 the alternative, pay the \$400.00 filing fee by July 29, 2016. Dkt. 4.

1 Plaintiff has not filed a response to the Order to Show Cause and has not paid the filing
2 fee. Because Plaintiff appears capable of paying the filing fee and has not shown cause why he
3 cannot afford the \$400.00 filing fee, the Court recommends Plaintiff's Motion be denied.

4 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have
5 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.
6 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. *See*
7 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the
8 clerk is directed to set the matter for consideration on September 9, 2016, as noted in the caption.

9 Dated this 22nd day of August, 2016.

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12 David W. Christel
13 United States Magistrate Judge
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